United Nations S/2005/456

Security Council

Distr.: General
14 July 2005

Original: English

Letter dated 11 July 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 23 April 2003 (S/2003/457). The Counter-Terrorism Committee has received the attached third report from Bangladesh submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

05-42216 (E) 080805

Annex

Letter dated 6 July 2005 from the Permanent Representative of Bangladesh to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I refer to my letter of 12 May 2005 regarding submission of the report of Bangladesh to the Counter-Terrorism Committee.

I am pleased to forward herewith the third report of Bangladesh to the Committee in compliance with Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Iftekhar Ahmed **Chowdhury**

Enclosure*

Third report on national implementations of Security Council resolution 1373

1.2 Effective implementation of sub-paragraph 1(b) of the Resolution requires a state to have in place provisions specifically criminalizing the wilful provision of collection of funds by its nationals or in its territory, by any means directly or indirectly, with the intention that the funds should be used, in order to carry out a terrorist acts. For an act to constitute an offence as described above it is not necessary that the funds be actually used to carry out terrorist offence (see article 2 paragraph 3 of the International Convention for the Suppression of the Financing of Terrorism). The acts sought to be criminalized are thus capable of being committed even if

- *The only related terrorist act takes place or is intended to take place outside the country,*
- *No related terrorist act actually occurs or is attempted;*
- *No transfer of funds from one country to another takes place or*
- *The funds are of a legal origin.*

The supplementary report of Bangladesh (page-3) indicate that the objectives and requirements of paragraph 1 Resolution 1373 (2001) are covered by the Money Laundering Prevention Act, 2002 enacted on 5 April 2002 and further that other statutes and laws confer wide powers on the Government for the control and financing of terrorism. The CTC would be grateful for an explanatory outline of each of the relevant provisions of the laws that fulfill the requirements of sub-paragraph 1(b) and if possible, as it would be of particular assistance to the CTC in the carrying out of its work, for a copy of the Money Laundering Act, 2002 itself.

Ans:

In paragraph 2 of the Money Laundering Prevention Act, 2002, Money Laundering is defined as under:

a) Accumulation or acquisition of wealth directly or indirectly through illegal means;
b) Illegally transferring, converting, concealing the location of legal or illegally acquired wealth by direct or indirect means.

A copy of the Act is enclosed (Annex 'A'). In this connection it may be mentioned here that revision of the present Act is under active consideration of the Government. It is expected that the revised law would further strengthen the legal regime against money laundering as well as illegal money transactions.

It may also be mentioned that no sustainable evidence or proof of link with International terrorist groups were found with the criminal acts in the country. Activities relating to fund raising for financing of terrorist activities were also not found or traced.

* Annexes are on file with the Secretariat and are available for consultation.

1.3 *The supplementary report (page-4) states that steps are under way under the Money-Laundering Act to instruct all banks and financial institutions to report any suspicious transactions in the prescribed manner and failure to do so will invite a penalty. Please provide an outline of the relevant provisions of the Money-Laundering Act 2002 that require banks and financial institutions to report suspicious transactions. How does Bangladesh propose to cast a similar obligation on lawyers, notaries and accountants engaged in financial transactions? Does the reporting obligation under the Money-Laundering Act 2002 cover all suspicious transactions including the financing of terrorism?*

Ans:

Section 19(1)(C) of the Anti-Money Laundering Act requires banks and non-bank financial institutions and other institutions involved in financial activities to report suspicious/unusual transactions to Bangladesh Bank. Section 19(4) empowers Bangladesh Bank to penalize the banks, financial institutions and non-bank financial institutions for neglecting or failure to report suspicious/unusual transactions to Bangladesh Bank.

The reporting obligation under the Act covers all suspicious/unusual transactions: hence financing of terrorism is also covered. So far Bangladesh Bank devised reporting mechanism for banks and non-banks financial institutions.

1.5 *Effective implementation of paragraph-1 of the Resolution also requires an appropriate monitoring mechanism (involving for example, registration and auditing requirements) to ensure that the funds collected by organizations which have or claim to have chantable, social or cultural goals are not diverted to purposes other than their stated purposes, in particularly to the financing of terronsm. The response given in the supplementary report (page-3) in relation to paragraph 1(d) indicates that there is strict Central Bank supervision to identify and monitor unusual and unwarranted transactions. Please explain the legal and other institutional mechanism in force to monitor the collection and use of funds both domestically and from abroad to ensure that they are not diverted to uses other than their stated purpose and particularly to terrorist activities.*

Ans:

The guidelines issued in pursuance of the AML Act, require banks and financial institutions to appoint compliance officer at each of their branches and to establish a central compliance unit at their head offices to monitor & report unusual/suspicious transactions.

As per article 19(3) of the Anti Money Laundering Act (AML), banks, financial institutions and other institutions involved in financial activities are subject to punitive action by their Regulators for failure or neglect in maintaining the identity and address of their clients. Besides, Article 19(4) of the Act empowers Bangladesh Bank to impose financial penalty upon those institutions which default in carrying out their obligation under Article 19(1) of the Act.

1.6 *What legal requirements are there for financial institutions and alternative money transfer agencies to obtain and record originator information in relation to all transfers?*

Ans:

Banks and Financial Institutions are required to preserve information about the transaction profile as well as the identity of their customers which cover originator information. They are also required to preserve the identity and address of persons on whose behalf money transfer are made.

1.7 *The CTC notes that, in both its original report and in its supplementary report, Bangladesh has not include any provisions for meeting the following internationally recognized anti-terrorist financing measures: a) licensing and / or registration of persons or legal entities that transmit money or value, (include non-depository money service business) and b) reporting financial institutions to include originator information (names, address, account number) on all fund transfers. The CTC would be grateful if Bangladesh could supply information in relation to these matters.*

Ans:

In Bangladesh money transfer can be made by banks and post offices. Banks are licensed by the Bangladesh Bank; while post offices are government agencies.
As mentioned against para 1.6 above, all banks and financial institutions are required to know their customer and preserve the name and addresses of persons on whose behalf money transfer are made.

1.8 *Please provide an outline of the legal provisions in force in Bangladesh that regulate alternative money transfer mechanisms.*

Ans:

There is no legal provision in Bangladesh for alternative money transfer system.

1.9 Effective implementation of sub-paragraph 2 (a) of the Resolution requires States to criminalize the recruitment of members of terrorist groups both inside and outside their respective territories and to eliminate the supply of weapons to terrorists. The CTC would appreciate receiving information from Bangladesh on legislation that is in place, or proposed, to deal with this aspect of the Resolution.

Ans:

There are no records of recruitment of international terrorist group in Bangladesh. Some local groups are engaged in criminal activities which are dealt with by the existing Criminal Laws of the country.

1.10 The CTC would be grateful to have an outline of the provision of law that regulate the manufacture, sale, possession, storage, transport, import and export of arms, ammunition and explosives.

Ans:

There are two laws in force in Bangladesh to regulate the manufacture, sale, possession, storage, transport, import and export of arms, ammunition and explosives, namely -

(i) The Arms Act, 1878 (Act XI of 1878)
(ii) The Explosive Substances Act, 1908 (Act VI of 1908).

Photocopy of the relevant sections of these Acts is annexed herewith and marked as Annexure-"A".

On the enforcement side, security personnel at all ports, air routes, land routes are kept alert and instructed to check travelers and goods crossing through these routes to prohibit transit of any sort of illegal arms, ammunition, explosive and cash which may be use for terrorism purpose.

1.11 Please describe the institutional arrangements in Bangladesh that enable provision of early warning of anticipated terrorist activity to other States.

Ans:

As a member of Interpol, there is an arrangement under which Bangladesh can exchange all sorts of criminal or terrorist information with other states. In addition, National Security Intelligence (NSI) is sharing information with foreign agencies on any suspected terrorist activities.

1.12 Please provide an outline of the legal provisions that deny safe haven to those who finance, plan, support or commit terrorist acts or provide safe haven to terrorists.

Ans:

There are some legal provisions in sections 120A and 120B of the Penal Code, 1860 (Act V of 1860) and section 15 of the Special Powers Act, 1974 (Act XIV of 1974) that deny safe haven to those who finance, plan, support or commit terrorist acts or provide safe haven to terrorists.

Photocopy of the relevant sections of these Acts is annexed (Annexure-'B').

In general, the following Acts are applied to take countermeasures against criminal activities.

(i) The Arms Act
(ii) Speedy Tribunal Act
(iii) Women and Children Repression Prevention Act
(iv) Money Laundering Act
(v) Narcotic Control Act
(vi) Passport Act
(vii) Foreigner Entry Act
(viii) Explosive Substance Act.

1.13 Sub-paragraph 2(d) requires States to prevent those who plan, finance, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens. Please explain and provide an outline of the legal provisions in force in Bangladesh that enable Bangladesh to comply with this sub-paragraph.

Ans:

There are some preventive and punitive provisions in section 4 and section 108A of the Penal Code, 1860 (Act V of 1860) to prevent those who plan, finance, facilitate or commit terrorist acts from using their respective territories against other States or their citizens.

Photocopy of the relevant sections of the Penal Code is annexed (Annex-'C').

1.14 Please explain and provide an outline of the legal provisions in Bangladesh that enable it to ensure compliance with the requirements of sub-paragraph 2(e) of the Resolution. Please explain the competence of courts in Bangladesh to deal with a foreign national found in its territory who cannot be extradited for terrorist offences committed outside its territory against other States and their nationals.

Ans:

There is no law in force in Bangladesh empowering any court to deal with a foreign national found in the territory of Bangladesh for terrorist offences committed outside Bangladesh against other States and their nationals. We have Extradition Act, 1974 (Act LVIII of 1974) but there is no such provision regarding the facts stated in this para in the said Act.

1.15 *The CTC would be grateful to know the legal and other administrative measures in place to provide assistance to requesting States in matters of criminal investigations and judicial proceedings as required by paragraph-2(f).*

Ans:

There is no law in force in Bangladesh to provide assistance to requesting States in matters of criminal investigations and judicial proceedings. However, Article 18 of the Money Laundering Prevention Act, 2002 provides that Bangladesh government may enter into agreement with foreign states to fulfill the objectives of the Money Laundering Prevention Act in force in Bangladesh.

1.16 In view of the extensive and difficult land borders that Bangladesh has, the CTC would be grateful to know how Bangladesh coordinates with its neighbors in applying border control with particular reference to the movement of terrorists across its borders.

Ans:

On receipt of information on terrorist activities from across the border on likelihood of their escaping into our sides, our law enforcing agencies carry out operations in our

territory. Flag meetings among the border forces of two countries are held to restrict the movement of criminals across its borders. Moreover, after receiving the information border security force and other agencies are kept alert for this purpose. Thus Bangladesh coordinates with her neighbors in applying borders control.

1.17 Please explain the steps taken by Bangladesh to prevent counterfeiting, forgery and fraudulent use of identity papers and travel documents.

Ans:

Bangladesh has taken the following steps to prevent Counterfeiting, forgery and fraudulent use of identity papers and travel documents: (i) there are specific penal section for counterfeiting, forgery and fraudulence. (ii) Arrangements of training for the personnel of the special agencies are being made (iii) Special operations/drives are being carried out to round up the persons who are involved in the criminal activities of counterfeiting forgery etc. (iv) Database has been prepared and kept in all check post (air, land and water route) to stop any known terrorist from traveling to Bangladesh.

1.18 The CTC would be grateful to know the arrangements in place in Bangladesh for the exchange of operational information covering the movement of terrorists, forged or falsified travel documents, traffic in arms, explosive or sensitive materials.

Ans:

Information on trans-border crimes, like trafficking of arms, explosives or sensitive materials are exchanged with counterparts of neighboring countries as per agreed modalities of border guidelines. We also exchange information covering movement of suspicious people, forged or falsified travel documents, trafficking in arms, explosives on sensitive substances with the Interpol.

1.19 Compliance with Resolution 1373 requires Member States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism. As stated in the supplementary reports Bangladesh is a party only to 3 out of 12 instruments. The CTC would be grateful to have a progress report as regards Bangladesh becoming party to the remaining 9 instruments and as to how it proposes to implement them.

Ans:

Bangladesh has decided to join the 8 out of 9 international instruments(actually now it is 10 with the adoption of Convention on the Suppression of Nuclear Terrorism) relating to terrorism. Necessary instruments of accession in this regard has already been sent to the respective depositaries. The possibility of joining to the remaining two Conventions are under active consideration of the Government of Bangladesh.

1.20 The reply to sub-paragraph 3(g) states that the Act of 1979, "An Act to Consolidate and amend the law relating to the extradition of fugitive offenders" provides that no fugitive offender shall be surrendered where the requisition for such surrender has been made with a view to the offender being tried or punished for an

offence of a political character. Please confirm that the Act of 1979 applies to the case of fugitives who have committed terrorist offenses with political motives.

Ans:

In Extradition Act, 1974, the term "terrorist offences with political motives" has not been used and no definition is available in that Act or any other laws in force in Bangladesh. So, the Act LVIII of 1974 does not apply to the case of fugitives who have committed terrorist offences with political motives. It is mention worthy that the said Act of 1974 prohibits the extradition of a fugitive offender who is accused of an offence of a "political character". The provision empowers the Magistrate or the Court or the Government to decide whether the offence is of "political character" or not [section 5(2) (a)].

1.21 Effective implementation of sub-paragraph 2(d) requires States to criminalize the use of their territories for the purpose of financing, planning, facilitating or committing terrorist acts against other States or their citizens. The CTC would appreciate information from Bangladesh on legislation that is in place, or proposed, to deal with this aspect of the Resolution.

Ans:

The answer of this para is same as para 1.13

1.22 Is the existence of a bilateral agreement or arrangement a prerequisite either to extradition or before Bangladesh can offer legal assistance to another State.

Ans:

Yes, a bilateral agreement or arrangement is a prerequisite, i.e. extradition treaties are required for extradition of fugitive offenders from, and to, Bangladesh. In that way Bangladesh can offer legal assistance to another State according to the Extradition Act, 1974 (Act LVIII of 1974).

Photocopy of the relevant section is annexed herewith and marked as Annexure-'D'.

1.23 The CTC is aware that Bangladesh may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Bangladesh's response to these matters as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of resolution 1373.

Ans:

Bangladesh has sent a report to the IMF on some queries related to money laundering etc.

2.3 The CTC notes also that its Technical Assistance Team has met with a representative of the Permanent Mission of Bangladesh to discuss potential sources

of assistance and advice. I am pleased to inform you that the initial request for assistance submitted by the Government of Bangladesh has been forwarded to potential assistance-providers. The CTC looks forward to receiving a detailed list of the assistance needs of Bangladesh. The Technical Assistance Team will continue to monitor the progress of the request.

Ans:

Bangladesh needs the following supports/assistance:

a) Setting up of a computer network with all borders and check posts.
b) Establishment of computer network with all international and domestic airports.
c) Setting up of computer network with all land, air and water route
d) Upgradation of Bangladeshi passports to machine readable ones.
e) Training on identifying Counterfeit travel documents.
f) Database handling and computer training.
g) Training on counter terrorism.